

MONTANA LEGISLATIVE HISTORY

Chapter 704 19 79

Bill H _____ S 497 Original bill & history ✓ C

H. Committee on Fish & Game

Hearing Date(s) 3-8 _____ C

_____ C

_____ C

_____ C

Date Out 3-8 _____ C

S. Committee on Fish & Game

Hearing Date(s) 2-17 12:30 pm C

2-17 7:00 pm C

2-19 _____ C

_____ C

LATE OUT 2-19

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

1 *Sen. Van Valkenburg* BILL NO. 497
2 INTRODUCED BY *Van Valkenburg*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT
5 SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS;
6 FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT;
7 PROVIDING PENALTIES, INCLUDING FORFEITURE OF PERSONAL
8 PROPERTY, FOR ILLEGAL AERIAL HUNTING OF WILDLIFE; AND
9 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Aerial hunting prohibited -- exceptions.

13 (1) Except as provided in [section 7], no person except an
14 employee of the state, its subdivisions, or the federal
15 government, acting within the scope of his employment may
16 engage in the aerial hunting of wild animals as defined in
17 87-7-101 without first obtaining a permit from the
18 department of livestock. The permit must specify the species
19 of wild animals to be hunted and the areas over which aerial
20 hunting may take place.

21 (2) No person issued a permit as required by this
22 section may engage in aerial hunting of wild animals in
23 violation of the terms of his permit.

24 Section 2. Use of personal property for illegal aerial
25 hunting prohibited. When a permit is required under [section

1 1], the use of any aircraft or other personal property,
2 including motor vehicles and other personal property used on
3 the ground in support of aerial hunting activities, for the
4 aerial hunting of any wildlife is prohibited except when
5 done pursuant to the terms of the permit.

6 Section 3. Prohibition against harassing livestock. No
7 person, whether or not lawfully authorized to aerially hunt,
8 may, while engaged in flying an aircraft, knowingly harass,
9 injure, or attempt to injure any livestock except with the
10 express permission of the owner of the livestock. Flying
11 near livestock at an altitude of less than 500 feet creates
12 a rebuttable presumption of intent to harass.

13 Section 4. Rulemaking authority. The department of
14 livestock may adopt rules to effectuate the purposes of
15 [this act] and to implement and conduct the aerial hunting
16 permit system provided for by [this act]. Such rules may
17 include:

18 (1) limits on the number of permits issued for a
19 specific area of land;

20 (2) limits on the distance from home base that a
21 permitted aerial hunter is able to hunt;

22 (3) reasonable experience qualifications for pilots
23 and gunners;

24 (4) standards for determining when a nonresident may
25 be issued a permit under [section 6];

(5) standards for the issuance of a permit based upon actual or potential livestock losses due to predation;

(6) reports required of permittees; and

(7) such other matters as may be necessary to effectuate the purposes of [this act] and reduce loss to livestock or game due to predation.

Section 5. Duration of permit -- fee. Each permit shall be valid for a period set by the department of livestock not to exceed 3 years and shall cost \$50 a year or portion thereof if a period of less than a year is set. All fees for permits shall be paid to the department of livestock for deposit in the state treasury to the credit of the earmarked revenue fund for predatory animal control.

Section 6. Residency requirement. No person not having residence and domicile in Montana may be issued a permit provided for in [section 1] except when authorized by the board of livestock. Permits may be issued to nonresidents for use only in Montana counties adjacent to the stateline if the department considers that such counties are inadequately serviced by resident permittees, or to nonresidents who are owners of land in Montana who wish to engage in aerial hunting only over their own property.

Section 7. Resident landowners authorized to aerially hunt over their own lands without permit -- conditions. Any landowner having residence and domicile in Montana may

engage in the aerial hunting of wild animals, as defined in 81-7-101, with his own aircraft and over his own land without a permit, provided he first notifies the department in writing that he will be engaged in aerial hunting and gives an adequate description of the location of the land over which he will aerial hunt. Such notification must be made annually.

Section 8. Penalties -- jurisdiction -- revocation of permit. (1) Any person violating [sections 1 or 3] is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$250 or more than \$1000 or by imprisonment in the county jail for a period not to exceed 6 months, or both.

(2) The justice court has jurisdiction over such violations.

(3) The department may revoke or suspend the permit of anyone violating its terms.

Section 9. Forfeiture of personal property used in illegal aerial hunting or harassment of livestock. (1) Any aircraft or other personal property used in the air or on the ground in support of aerial activity in violation of [sections 1 through 3] or 87-3-126 shall be forfeited to and confiscated by the state, along with any carcasses or pelts taken in violation of [this act]. If any property is observed in such use or if there exists probable cause to

1 believe it to have been or to be devoted wholly or in part
2 to such use, the property shall be seized and held by
3 enforcement officers set forth in [section 10]. Upon
4 conviction in a proceeding in district court in the name of
5 the state against the owner or user of such personal
6 property, the personal property shall be confiscated and
7 sold at sheriff's sale.

8 (2) This section does not apply to personal property
9 that has been stolen prior to the illegal use when the
10 lawful owner is not in collusion with the party or parties
11 involved in the illegal use.

12 Section 10. Enforcement. (1) Investigations of
13 violations of [this act], arrests, and seizures may be made
14 by any peace officers, fish and game warden, or agent of the
15 department designated by the department.

16 (2) To enforce [this act], the department may enter
17 into agreement with federal agencies with predatory animal
18 control. Such agreements may allow the federal agency to
19 assist in investigations, arrests, and seizures.

20 Section 11. Codification. Sections 1 through 10 in
21 this act are intended to be codified as an integral part of
22 Title 81, chapter 7, and the provisions contained in Title
23 81, chapter 7, apply to these sections.

24 Section 12. Effective date. This act is effective on
25 passage and approval.

SENATE BILLS - Page 2COMMITTEE ON FISH AND GAME

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
SB 475	2-12-79	2-17-79	TABLED ON FEBRUARY 17, 1979						
SB 485	2-12-79	2-17-79	2-17-79		2-17-79				
SB 488	2-12-79	2-17-79	2-17-79	2-17-79	(PLACED ON THE CONSENT CALENDAR)				
SB 461	2-12-79	2-17-79	2-17-79	2-17-79					
SB 470	2-12-79	2-17-79	2-17-79		2-17-79				
SB 497	2-13-79	2-17-79	2-19-79			2-19-79			
SB 501	2-13-79	2-17-79	2-17-79			2-17-79			
SB 504	2-13-79	2-17-79	2-17-79			2-17-79			

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OF MONTANA

se Separate Sheet for Senate, House Bills, and Resolutions)

MINUTES
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 17, 1979

The thirteenth meeting of the Fish and Game Committee was called to order by Chairman Smith at 12:30 P.M., in Room 402 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 497, A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS; FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT; PROVIDING PENALTIES, INCLUDING FORFEITURE OF PERSONAL PROPERTY, FOR ILLEGAL AERIAL HUNTING OF WILDLIFE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Chairman Smith asked Senator Van Valkenburg, Chief Sponsor, to explain it. Senator Van Valkenburg said there had been considerable aerial hunting in his district and his constituents had requested that he prepare and, present the bill. He went on to say there seem to be no regulations in the area regarding aerial predatory hunting. He then asked Mr. Charles Brown, Attorney for the Department of Livestock, to present his testimony. Mr. Brown, proponent of the bill, stated the bill is necessary because of the extensive losses caused by predators.

Mr. Joe Helle, a rancher, stated that, because of predators, the sheep industry has suffered greatly; therefore, he would support the bill, as amended.

Mr. Jerry Devlin, a sheep rancher from Prairie County, said that, because of the permitted pilots, there had been a noticeable loss of predators, and he would support the bill with the addition of the amendments.

Mr. McKamey, a rancher, spoke in support of the bill, saying he would ask that it pass with the amendments.

Mr. Chuck Newsom spoke in favor of the bill.

Chairman Smith asked for proponents; Mr. Hank Fischer, representing "Defenders of Wildlife," testified, stating he did not think this bill would be fair to the wildlife populations of Montana. It is his feeling the bill needs some changes.

Ms. Jean Curry, representing "Friends of the Earth," confronted the Committee with her suggestions to strengthen the bill. She also said nonresident hunters should not be allowed. (Attachment #2)

Mr. Bill Rogers, who is an aerial hunter representing himself and his family, said he has flown aircraft for many years, and he is opposed to the fact that confiscation of planes could occur as a result of this bill and cause less interest in the killing of coyotes.

Mr. Ralph Wright of Billings also spoke regarding the fact that aerial hunting would be reduced.

When Chairman Smith asked for comments from the Committee, Senator Van Valkenburg said that no matter what bill comes out, there would be problems with it. He further stated that, as amended, he would urge passage of the bill.

Senator Manley stated this is a horrible piece of legislation, in his opinion. He felt the bill is just another step toward taking citizens' rights away.

Chairman Smith mentioned that no one's testimony would be ignored. He said all information should be based on facts, and he is certainly aware that predation has been a serious problem.

Senator Goodover said although he is not involved in aerial flying, he is interested in hearing both sides come up with good arguments. He asked whether or not there is any common meeting ground.

Mr. Norton Minor said that because of Judge Battin's ruling, some kind of legislation should be passed.

Mr. Les Graham, representing the Department of Livestock, said there are no problems. He stated they have documented all flying time and the number of hours flown by permitted pilots; all records are very accurate.

The discussion was finished, and Chairman Smith closed the hearing on SB 497.

Date Feb. 17, 1979

12130 - 2430 P.M.

ROLL CALL

FISH AND GAME COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SMITH, Ed, Chairman	X		
GALT, Jack E., Vice Chairman	X		
ANDERSON, Mike	X		
GOODOVER, Pat M.	X		
MANLEY, John E.	X		
STIMATZ, Lawrence G.	X		
VAN VALKENBURG, Fred	X		

Each Day Attach to Minutes.

PROPOSED AMENDMENTS TO SB 497
Introduced (white) copy

1. Amend page 1 line 25
Following: "prohibited."
Strike: "When a permit is required under [section]"
2. Amend page 2 line 1
Strike: "1], the"
Insert: "The"
3. Amend page 2 line 3
Following: "activities"
Strike: ",,"
4. Amend page 2, line 5
Following: "done"
Strike: "pursuant to the terms of the permit"
Insert: "by and in accordance with the permit
required by [section 1], the provisions
[section 6] or employees of the state,
its subdivisions, or the federal government
acting within the scope of their employment"
5. Amend page 5 line 7
Following: "sale."
Insert: "Proceeds from the sale of property forfeited under
this section shall be deposited in the state treasury
to the credit of the predatory earmarked revenue
account of the department of livestock."

PROPOSED AMENDMENTS TO SB 497
Introduced (white) copy

1. Amend page 2 line 11
Strike: "near livestock at an altitude of less"
Insert: "closer to livestock"
 2. Amend page 3 lines 18 and 19
Following: "only in"
Strike: "Montana counties adjacent to the state line if"
Insert: "areas which"
 3. Amend page 3 line 19
Strike: "that such counties are"
 4. Amend page 5 line 8
Insert: a new subsection (2) as follows:
"Notwithstanding the penalty provided in subsection (1) of this section, when the personal property convicted under this section has been used in violation of the terms of a permit authorized by [this act], the owner of such property shall be fined \$1000 for a first offense. All further violations by the owner, or by the property shall result in forfeiture pursuant to this section."
- Renumber: Existing subsection (2) as subsection (3)

SB 497 testimony
Feb. 17, 1979

Attachment #

My name is Jean Curry. I am the Montana Representative for Friends of the Earth, which is an organization surprisingly reflects the Conservatism of Montanans in general. Our organization recognizes the need to be adaptive to regionalism rather than exploitative of an area and that conservative and fiscally prudent approaches to resource management make the most sense for the long term stability of earth communities.

Our members in Montana are both new and native to the state. My daughter is a 4th generation Montanan from the Deer Lodge valley. Her grandfather has told me in many discussions over coffee at the ranch about his concerns for the modern & insensitive control of predators.

I have been actively involved in trying to understand and alter predator policy in Montana. I continue to be confused, frustrated & overwhelmed by what appears to be policy based on myth, speculation, greed, and unscientific assumptions. Montana's predator policy makers tend to dismiss the need for objective, scientific data. What if we tried to implement a

internal combustion engine or even bake a cake on myth instead of laws of physics, combustion chemistry or oven baking temperatures?! Being arbitrary & selective with scientific information makes little sense to me.

SB 497 is basically a good attempt to effectuate control over aerial hunting but as written it is excessively general, full of loopholes and will perpetuate unwise wildlife management without necessarily meeting a goal of livestock protection.

I would like to offer the following suggestions to strengthen this bill:

1. That, at a minimum, all of the recommendations made by Hank Fisher of Defenders of Wildlife be incorporated as amendments to SB 497
2. That predation of game animals be deleted from this bill; it is highly inappropriate for the Dept. of Livestock to be in the business of "protecting" game animals from predation.
3. That "potential" livestock losses be deleted as a legitimate reason for a permit. "Potential" is just far too easily abused.

but the wildlife is a public resource and it's destruction should not be exempt from this permit program. There needs to be some way to prevent the predator kill incident.

5. That Sec. 3 includes wildlife along with livestock regarding prohibition of harassment.
6. That out of state or non-resident hunters not be allowed to exploit the program.
7. That the money generated be enough to properly and fairly enforce the program.
8. That permits be issued for only one year.
9. That a strict qualification ^{be included} requiring permittees to demonstrate knowledge of and ability to distinguish endangered or threatened species.
10. That a strict, standardized criteria for issuing permits that eliminates discretion of Livestock Dept. personnel.

If these very reasonable amendments are not incorporated into SB497, we would have to withdraw any support of the bill.

~~I am happy to have~~ Please understand that in speaking for certain wildlife species, we are not ~~automatically~~ speaking against livestock or ranchers or the economic health of Montana communities.

A living planet is a rare thing, perhaps the rarest.

and a tenuous experiment at best.
We need all the company we can
get on our unlikely journey.
One species death diminishes us all
for we are involved in life.

With all due respect to
the committee, why
are Ed Smith, John Markey
et al able to digress
from specifics of the bill,
while we can't?

FIVE VALLEYS AUDUBON SOCIETY



POST OFFICE BOX 8425
MISSOULA, MONTANA 59807

TESTIMONY OF FIVE VALLEYS AUDUBON & Montana Audubon Council
concerning SB 497

The Five Valleys Audubon Chapter serves a 4 county area of Western Montana. Our chapter which was formed two years ago now has approximately 400 members. The rapid rate of growth in the size of our chapter along with the formation of other new Audubon chapters in the state of Montana are we feel an indication of the interest among Montanans in non-game wildlife.

We are very disturbed with Judge Battin's ruling. And I as a law student would judge from the precedent existing previous to the case that the decision will not stand. We feel that it is appropriate for Montana to act immediately to control aerial hunting within Montana. We are concerned for the impacts that aerial hunting unregulated will have on our game and non-game animals. Aerial hunting must be controlled strictly in relation to game and non-game animals. No individual should be allowed to feel that he has license to decimate populations of valued animals. We are specifically concerned for the large birds of prey and the rarer mammals.

Unfortunately, this bill from our perspective is very inadequate in protecting the game and non-game animals of the state. We feel that Montana can by drafting and adopting a tough bill present to the other states and the Federal government an effective model for legislation in this area.

Cary B. Lund
Vice-President

CHAPTER OF THE NATIONAL AUDUBON SOCIETY

NAME: Ralph Wright DATE: 2-17-79

ADDRESS: Blue Creek Billings, Mont.

PHONE: 259-8261

REPRESENTING WHOM? Self & Family

APPEARING ON WHICH PROPOSAL: Antibear Hunting Act

DO YOU: SUPPORT? ✓ AMEND? ✓ OPPOSE?

COMMENTS: I feel the bill should be amended
to provide for a larger permit fee
and eliminate the confiscation of moose
for trespass violations. It will put a
chilling effect on the animal hunter
to have strict confiscation for a trespass.
Put in stiffer fines and allow
due process before confiscation.

NAME: _____

DATE:

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Kenneth A. Culler DATE: 2-17-79

ADDRESS: BRUSSETT, MONT 59315

PHONE: 557-2517 OR 2760

REPRESENTING WHOM? MONT ASSOC OF COUNTIES & GARFIELD COUNTY P.M.A.

APPEARING ON WHICH PROPOSAL: 497

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: WITHHELD SUPPORT OR OPPOSITION UNTIL
HEARING DISCUSSION.

I FEEL SOME REASONABLE CONTROL OF AERIAL
HUNTING IS NECESSARY. THE CONFEICATION OF AIRCRAFT
IS EXCESSIVE UNLESS SEVERAL PREVIOUS CONVICTIONS TO
THE OWNER OF AIRCRAFT. IN MY OPINION.

NAME: Fuller LAUGEMAN

DATE: FEB 17, 1979

ADDRESS: Box 145

PHONE: 429-7711

REPRESENTING WHOM? MONTANA TRADERS ASSN.

APPEARING ON WHICH PROPOSAL: Senate Bill 497

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Keith J. Gregerson DATE: Jul 17, 1979

ADDRESS: 810 First St East Roundup, Montana

PHONE: 323-1791

REPRESENTING WHOM? M.T.A.

APPEARING ON WHICH PROPOSAL: SENATE BILL 497

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jean Curry DATE: 2-17-79

ADDRESS: 509 Hill St.

PHONE: Missoula, Mont. 59801

REPRESENTING WHOM? Friends of The Earth

APPEARING ON WHICH PROPOSAL: JB 497

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

5B

SENATE

COMMITTEE

BILL

VISITORS' REGISTER

DATE

2-17-79

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
Ed Tyamich	Mt. Woodrow Assn.	497	✓	
Fuller Langeman	" " "	497	✓	
Frank Langeman	Trappers	497	✓	
Bob Gilbert	Mt. Woodrow Assn.	5B 497 with amendments	✓	
Joe T. Helle	Rancher	"	✓	
M. G. Devlin	Rancher	"	✓	
James (Mrs) Kanny	Rancher	"	✓	
Michael Padgett	myself	"		✓
Philip C. Cadwell	SELF	"		✓
John W. Rogers	Self	497		✓
Dick Todd	Self	497		✓
George Brumitt	Self	497		✓
Hank Fischer	DeKalb Co. Wildlife	497	✓	
John Bell	self	470		✓
Marj Bell	self	470		✓
Dave Moss	Self	497	with Amend	
Jean Curry	Friends of the Earth	497	(amendments)	
Jim Hogg	Mountain Club	485		
Cliff Christman	Mt. Woodrow Assn.	485		✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Q-17-fig

VISITORS' REGISTER

[illegible]

MINUTES
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 17, 1979

The fourteenth meeting of the Fish and Game Committee was called to order by Chairman Ed Smith, at 7:00 P.M., in Room 402 of the State Capitol Building.

ROLL CALL: All members were present, with the exception of Senators Galt and Stimatz, who were excused.

DISPOSITION OF SB 470: Senator Goodover made a motion that SB 497 DO NOT PASS. The motion was seconded by Senator Manley, and unanimously passed. Senator Galt had left his vote of "yes" on a DO NOT PASS motion with Chairman Smith.

CONSIDERATION OF SB 497, A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS; FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT; PROVIDING PENALTIES, INCLUDING FORFEITURE OF PERSONAL PROPERTY, FOR ILLEGAL AERIAL HUNTING OF WILDLIFE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Since the earlier meeting this date, a new bill had been drafted. Mr. Bob Gilbert of the Montana Woolgrowers Association, Mr. Joe Helle, also with the Woolgrowers Association, and representatives of the Montana Trappers Association, spoke in favor of the bill. Mr. Helle added that, as amended, the new bill would allow more consideration for pilots and trappers.

Senator Van Valkenburg stated that, with so many changes, he could not accept the new bill.

Chairman Smith mentioned he had not recommended a name be put on this bill.

Senator Manley said he thought the best thing to do would be to wait and work on a proposal within the next two years which would constitute a more compatible piece of legislation; he felt this would be wiser than accepting this bill. He asked the trappers how many months of the year they trap coyotes; they replied they trap twelve months of the year.

Mr. Edd Nentwig, representing the Trappers Association, said there were controls until the time of Judge Battin's ruling.

Chairman Smith asked if a meeting of the trappers, the private pilots, and Senator Van Valkenburg could result in an agreement regarding SB 497. It was decided they would meeting tomorrow.

DISPOSITION OF SB 475: Senator Goodover made a motion that SB 475 BE TABLED. The motion was seconded by Senator Manley and unanimously approved.

DISPOSITION OF SB 440: Senator Goodover made a motion that SB 440 BE TABLED. The motion was seconded by Senator Manley and unanimously carried.

ADJOURNMENT: Chairman Smith adjourned the meeting at 7:50 P.M.



SENATOR ED B. SMITH, CHAIRMAN

date Feb. 17, 1979

ROLL CALL

7:00 p.m.

FISH AND GAME COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SMITH, Ed, Chairman	X		
GALT, Jack E., Vice Chairman			X
ANDERSON, Mike	X		
GOODOVER, Pat M.	X		
MANLEY, John E.	X		
STIMATZ, Lawrence G.			X
VAN VALKENBURG, Fred	X		

Each Day Attach to Minutes.

A bill for an act entitled: An act providing for a permit system for the aerial hunting of predatory animals; forbidding the harassment of livestock by aircraft; providing penalties, and providing for an effective date.

Be it enacted by the legislature state of Montana: -

Section one: aerial hunting prohibited- exceptions.

1. except as provided in (section 7), no person except an employee of the state, its subdivisions, or the federal government, acting within the scope of his employment may engage in the aerial hunting of wild animals as defined in /without first obtaining a permit from the Department of Livestock. section 81-7-101

2. No person issued a permit as required by this section may engage in aerial hunting of wild animals in violation of the terms of this act or the rules and regulations promulgated by the Board of Livestock.

Section two: use of personal property for illegal aerial hunting prohibited. When a permit is required under (section one) the use of any aircraft or any other personal property, including motor vehicles and other personal property used on the ground in the support of aerial hunting activities, for the aerial hunting of any wildlife is prohibited except when done pursuant to a permit issued by the Department of Livestock.

Section three: prohibition against harassing livestock. No person, whether or not lawfully authorized to aerial hunt, may, while engaged in flying an aircraft, knowing harass, injure, or attempt to injure any livestock, except with the expressed permission of the owner of the livestock.

Section four: Rule making authority. The department of livestock shall adopt rules to effectuate the purposes of this act and to implement and to conduct the aerial hunting permit system provided for by this act. Such rules may include:

1. classification of wild animals.
2. limits on the number of permits issued for a specific area of land.
3. reasonable experience qualification of pilots and gunners.
4. standards for determining when a non resident may be issued a permit under section six.
5. standards for the issuance of a permit.
6. reports required of permittees; and
7. such other matters that may be necessary to effectuate the purposes of this act and reduce loss to livestock or game due to predation.

Section five: duration of permit----fee. Each permit shall be valid for a period set by the Department of Livestock not to exceed three years and shall cost \$50. a year

All fees for permits shall be paid to the Department of Livestock for deposit in the state treasury to the credit of the earmarked revenue fund for predatory animal control.

Section Six: Residency requirement. No person not having residence and domicile in Montana may be issued a permit provided for in section one, except when authorized by the Board of Livestock. Permits may be issued to non residents for use only in areas which the department considers are inadequately serviced by resident permittees or to non residents who are owners of land in Montana who wish to engage in aerial hunting only over their own property.

Section seven: Resident landowners authorized to aerial hunt over their own lands without a permit---- conditions.

Any landowner having residence and domicile in Montana may engage in aerial hunting of wild animals over his own land without a permit providing annual notification is given the Department of Livestock of lands to be hunted and a description of predatory animals to be hunted.

Section eight: Penalties--jurisdiction---revocation of permit.

1. any person violating this act is guilty of a misdemeanor and upon conviction is punishable as follows:

- a) for a first conviction, a fine of not more than \$1,000;
- b) for a second conviction, a fine of not more than \$1,500;
- c) for a third and subsequent convictions by a fine of not more than \$3,000;
- d) for the purpose of determining the number of convictions, convictions shall be accumulated for the life of the permit.

2. the Justice court has jurisdiction over the first and second violations and the District court has jurisdiction over third and subsequent convictions.

3. the Department of Livestock may revoke or suspend the permit of anyone violating this act or the rules and regulations promulgated by the board of livestock.

4. the Department may confiscate any carcasses or pelts taken in violation of this act with the revenue derived from the sale of carcasses or pelts paid to the Department of Livestock for deposit in the state treasury to the credit of the earmarked revenue funds for predatory animal control.

Section nine: Enforcement.

1. Investigations of violations of this act, arrests, and enforcement thereof shall be the

responsibility of the Department of Livestock or its' agents.

2. to enforce this act, the Department may enter into agreement with federal agencies charged with predatory animal control. Such agreements may allow the federal agency to assist in investigations, arrests, and the enforcement of this act.

Section ten: Codification. Sections one through nine in this act are intended to be codified as an integral part of title 81, chapter seven and provisions contained in title 81, chapter seven apply to these sections.

Section eleven: effective date. This act is effective July 1, 1979.

SENATE John C. Stennis COMMITTEE

BILL

VISITORS' REGISTER

DATE 2-17-79

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
W. G. Kentlin	Parkers	497	✓	
Joe T. Helle	Mont Woolgraves	497	✓	
Art T. Mapp	Janet Mapp			
Ed Isaac	Ed Isaac			
R. G. Mapp	Ed Mapp	497	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

MINUTES
FISH AND GAME COMMITTEE
MONTANA STATE SENATE

February 19, 1979

The fourteenth meeting of the Fish and Game Committee was called to order by Chairman Smith at 6:20 P.M., in Room 402 of the State Capitol Building.

ROLL CALL: All members were present, with the exception of Senator Galt and Senator Manley, who were excused.

CONSIDERATION OF SB 497, A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS; FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT; PROVIDING PENALTIES, INCLUDING FORFEITURE OF PERSONAL PROPERTY, FOR ILLEGAL AERIAL HUNTING OF WILDLIFE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Senator Van Valkenburg reviewed the amendments to SB 497. (Refer to attached Standing Committee Report.)

Senator Van Valkenburg made a motion that the amendments, which had been reviewed by the Committee, be accepted.

Question by Senator Stimatz; unanimously carried.

DISPOSITION OF SB 497: Senator Van Valkenburg that SB 497 DO PASS, AS AMENDED. Senator Stimatz seconded the motion, and it carried unanimously.

ADJOURNMENT: Chairman Smith adjourned the meeting at 6:40 P.M.



SENATOR ED B. SMITH, CHAIRMAN

date 2-19-79

ROLL CALL
FISH AND GAME COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SMITH, Ed, Chairman	✓		
GALT, Jack E., Vice Chairman			✓
ANDERSON, Mike	✓		
GOODOVER, Pat M.	✓		
MANLEY, John E.			✓
STIMATZ, Lawrence G.	✓		
VAN VALKENBURG, Fred	✓		

Each Day Attach to Minutes.

THOMAS L. JUDGE, Governor

ANIMAL HEALTH DIVISION

Glenn C. Halver, D.V.M.
Administrator

BRANDS-ENFORCEMENT DIVISION

James L. "Les" Graham
Administrator



BOARD OF LIVESTOCK

Robert G. Barthelmess, Miles City,
Chairman
Robert L. Deschamps, Jr., Bonanza
Eugene C. Donaldson, Helena
Fred A. Johnston, Great Falls
Vernon V. Keller, Fishtail
Ralph J. Parker, Fort Shaw
Robert M. Simons, Turner

STATE OF MONTANA
DEPARTMENT OF LIVESTOCK
HELENA, MONTANA 59601
(406) 449-2043

February 20, 1979

PROPOSED STATEMENT OF INTENT RE SB-497

Section 4 of this bill requires the Department of Livestock to adopt rules regulating aerial hunting. It is the intent of this bill that any rules so adopted not interfere with the needs of livestock producers protecting their livestock from predation. At the same time it is the intent of this bill that such rules protect the interests of persons who do not wish aerial hunting to occur over land in their control.

Respectfully submitted,

A handwritten signature in cursive script, reading "Les Graham".

Les Graham, Administrator
Brands-Enforcement Division
Department of Livestock

APPROVED BY THE SENATE COMMITTEE OF FISH AND GAME ON
FEBRUARY 20, 1979

STANDING COMMITTEE REPORT

February 19 19 79

MR. President

We, your committee on Fish and Game

having had under consideration Senate Bill No. 497

Respectfully report as follows: That Senate Bill No. 497,
introduced bill, be amended as follows:

1. Page 1, lines 7 through 9.

Following: "PENALTIES"

Strike: ", INCLUDING FORFEITURE OF PERSONAL PROPERTY, FOR
ILLEGAL AERIAL HUNTING OF WILDLIFE; AND PROVIDING AN IMMEDIATE
EFFECTIVE DATE"

2. Page 1, line 17.

Following: line 16

Strike: "87-7-101"

Insert: "81-7-101"

3. Page 1, lines 18 through 20.

Following: "livestock."

Strike: remainder of line 18 and all of lines 19 and 20

DO-PASS

(Continued)

February 19, 1979

4. Page 1, line 23.
Following: "permit"
Insert: ", the rules promulgated by the Board of livestock, or
the terms of [this act]"
5. Page 1, line 25 and line 1 on page 2.
Strike: "When a permit is required under [section 1], the"
Insert: "The"
6. Page 2, line 3.
Following: "activities"
Strike: ", "
7. Page 2, line 5.
Following: "pursuant to"
Strike: "the terms of the"
Insert: "a"
Following: "permit"
Insert: "issued by the department of livestock"
8. Page 2, lines 10 through 12.
Following: "livestock."
Strike: remainder of line 10 and all of lines 11 and 12
9. Page 2, line 14.
Following: "livestock"
Strike: "may"
Insert: "shall"
10. Page 2, lines 20 and 21.
Following: "(2)"
Strike: remainder of line 20 and all of line 21.
Insert: "the species of wild animals to be hunted;"
11. Page 3, line 2.
Strike: "actual or potential"
12. Page 3, lines 18 and 19.
Following: "only in"
Strike: remainder of line 18 and "if" on line 19
Insert: "areas which"
13. Page 4, line 2.
Following: "81-7-101,"
Strike: "with his own aircraft and"
14. Page 4, line 3.
Following: "he"
Strike: "first"
Insert: "annually"

(continued)

15. Page 4, lines 6 and 7.

Following: "Such"

Strike: "notification must be made annually"

Insert: "hunting must be in accordance with all rules of the department of livestock"

16. Page 4, line 9.

Following: "violating"

Strike: "[sections 1 or 3]"

Insert: "any provision of [this act]"

17. Page 4, lines 10 through 13.

Following: "misdemeanor"

Insert: "."

Strike: remainder of line 10 and all of lines 11, 12 and 13

18. Page 4, line 14.

Following: line 13

Insert: "(2) (a) A conviction for a violation of [section 1(1)] is punishable by a fine of not less than \$500 or more than \$1000 or by imprisonment in the county jail for a period not to exceed 6 months, or both. A subsequent conviction is punishable by a fine of not less than \$1000 or more than \$1500 or by imprisonment in the county jail for a period not to exceed one year.

(b) A conviction for a violation of provisions of [this act] other than [section 1(1)] shall be punishable by fine of not more than \$500 or by imprisonment in the county jail for a period not to exceed 6 months, or both. A subsequent conviction shall be punishable by a fine of not less than \$250 and not more than \$500 or by imprisonment in the county jail for a period not to exceed 6 months."

Renumber: subsequent subsections

19. Page 4, line 18 through line 11 on page 5.

Strike: Section 9 in its entirety

Renumber: subsequent sections

20. Page 5, line 20.

Following: "through"

Strike: "10"

Insert: "9"

21. Page 5, lines 24 and 25.

Strike: section 12 in its entirety

And, as so amended,

DO PASS *ca*

Ed. B. Smith,

Chairman.

Fish and Game COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 456	TO REMOVE FROM THE YOUTH COURT THE JURISDICTION OVER VIOLATIONS OF TRAFFIC AND FISH AND GAME LAWS BY A YOUTH.	2-23-79	Thomas	3-8-79	Be Concurred In As Amended	3-8-79
SB 497	PROVIDING FOR A PERMIT SYSTEM FOR AERIAL HUNTING OF PREDATORY ANIMALS; PROVIDING PENALTIES, FOR ILLEGAL AERIAL HUNTING; FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT.	2-28-79	Van Valkenburg	3-8-79	Be Concurred In As Amended	3-8-79
SJR 29	DIRECTING THE FISH AND GAME COMMISSION TO ADOPT A RULE LIMITING THE SIZE OF HOLE AN ICE FISHERMAN MAY CUT IN THE ICE.	4-9-79	Turnage	4-11-79	DO PASS	4-11-79

HOUSE FISH AND GAME COMMITTEE

March 8, 1979

The meeting was called to order by Chairman Staigmilller at 12:30 p.m. with all members present except Representatives Conroy, Curtiss, and Johnson.

SENATE BILL NO. 504

SENATOR ROBERT D. WATT, Chief Sponsor, introduced the bill. He explained that this bill would make it a misdemeanor to leave snares and traps unattended and to waste fur-bearing animals. With the passage of this bill we hope to stop some of the careless trappers from leaving these traps unattended during and after the trapping season.

The Fish and Game Department will enforce the provision of this act.

PROPOSERS:

FLETCHER NEWBY, Department of Fish and Game, rose in support of the bill on behalf of the Department.

JANET MOORE, Montana Trappers Association, stated that this bill had resulted from a meeting of the association, in Missoula. This organization is made up of over 500 trappers and they are in full support of this bill.

WILLIS KENT, Montana Trappers Association, explained that there are a lot of trappers in his area that have been leaving their traps unattended. Last year there were 300 unattended traps left after the season was over. "I feel something has to be done to stop these people."

Questions were asked by the committee and the hearing on SB 504 was closed.

SENATE JOINT RESOLUTION NO. 21

SENATOR GREG JERGESON, Chief Sponsor, introduced the bill. He explained that hydatid tapeworm is a very serious problem concerning the infestation of foxes and coyotes. If animals and humans get this tapeworm it will effect a humans liver and death is possible.

Dr. Werley, MSU, has been working on a control for the tapeworm. This resolution is asking the Governor and Montana's Congressional delegation to find \$25,000 for research in the control of this worm. Attached is a sheet submitted by the Senator explaining the tapeworm.

PROPOSERS:

ZACK STEVENS, representing the Farm Bureau and other farm organization explained that the tapeworm is a danger to humans. A man recently died in Utah from infestation by this worm.

ALICE FRYSLIE, Montana Cattlemen's Association, rose in support of the resolution.

Questions were asked by the committee and the hearing on SJR 21 was closed.

SENATE BILL NO. 456

SENATOR BILL THOMAS, Chief Sponsor, introduced the bill. He explained that the problem in some areas were that violations of traffic and fish and game laws by youth were not being handled quickly enough in the youth courts. This bill will allow their cases to be handled through the justice department.

The County Attorney Association and the probation people are in full support of the bill.

He concluded by stating that the original bill was much shorter but the Senate had amended it to read as it is. "I felt it did the job before amendments were added."

Questions were asked by the committee and the hearing on SB 456 was closed.

SENATE BILL NO. 497

REPRESENTATIVE MANUEL moved to have the Department of Livestock present SB 497, for Senator Van Valkenburg, sponsor. The motion was carried unanimously.

CHARLES BROWN, Department of Livestock, explained that this bill had been drafted by the trappers association after the Federal Airborn Hunting Act was declared unconstitutional. This bill will provide for a permit system for the aerial hunting of predatory animals. The permit will be valid for three years, costing \$50 per year. This bill also provides the Department the rule making authority. It provides a maximum fine of \$500 for violations of this act. Enforcement of this act shall be done by an agent of the Department or any peace officer.

He concluded by stating that this was kind of a trespassing act.

PROPOSERS:

MONS TEIGEN, Montana Stockgrowers and Montana Woolgrowers Associations, stated that if we are going to have an aerial hunting act this one will have to do.

STANLEY V. PECK, Aerial Hunter from Cascade, stated that at this time they have no control over who was or is aerial hunting. "I feel this is a weak bill but we need something and it is better than nothing. We have farmers that are threatening to shoot aerial hunters."

ALICE FRYSLIE, Montana Cattlemen's Association, stated that the people in Eastern Montana are really having problems with aerial hunters and if something is not done there is going to be range wars developing.

LES GRAHAM, Department of Livestock, submitted amendments to the bill. He stated that these amendments fit the Letter of Intent passed by the Senate. It stiffens the penalties and makes the act enforceable. "We feel it is totally unenforceable as written. Out-of-state pilots will flood Montana. Mixups will be blamed on the Montana people and the slap on the hand penalties won't be worth the time to even look into the violation." (prepared testimony and amendments attached)

Chairman Staigmilller submitted a petition from people in the Grass Range area, in support of controlled aerial hunting. (petition attached)

OPPONENTS:

HANK FISCHER, Defenders of Wildlife, stated that the federal act that was declared unconstitutional was set up to protect wildlife. The federal bill said that there should not be aerial hunting. Our organization fully supports licensing and restrictions for aerial hunting. However, we can not support the bill as written. "We urge the committee to take a careful look at the bill and take care of it's weaknesses. We would be willing to help."

Questions were asked by the committee and the hearing on SB 497 was closed.

EXECUTIVE SESSION:

SENATE BILL NO. 504

Representative Keedy moved, TO AMEND, striking, "fur-bearing," throughout the bill. The motion failed 8 to 7. Favored: Daily, Ellison, Jensen, Johnston, Keedy, Marks, Ken Robbins

Representative Ellison moved, BE CONCURRED IN.

Representative Marks made a substitute motion, TO AMEND, as follows:

1. Title, lines 5 and 6.

Following: "UNATTENDED"

Strike: "AND TO WASTE FUR-BEARING ANIMALS"

2. Page 1, line 1.

Following: "Section 1."

Strike: "Wasting of fur-bearing animals"

Insert: "Failure to attend traps -- penalty"

3. Page 1, line 10 and 11.

Following: "to"

Strike: "pick up traps or snares at the end of the trapping season or attends"

Minutes
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Page 4, 1979

Insert: "attend"

4. Page 1, line 11.
Following: "snares"
Strike: "so that"

5. Page 1, line 12.
Following: "of"
Strike: "fur-bearing animals are wasted"

The motion was carried 9 to 6. Opposed: Jensen, Metcalf, Ken Robbins, Thoft, Manuel, Staigmilller

The motion to BE CONCURRED IN AS AMENDED was carried 14 to 1. Opposed: Staigmilller

SENATE JOINT RESOLUTION NO. 21

Representative Daily moved, TO AMEND, as follows:

1. Title, line 6.
Strike: "AND LIMITING THE AUTHORITY OF COURTS RELATING TO IMPOUNDMENT OF VEHICLES"

2. Title, line 8.
Strike: "SECTIONS"
Insert: "SECTION"
Strike: "AND 61-12-601"

3. Page 1, lines 23 and 24.
Strike: "OR VIOLATIONS OF 61-8-401"

4. Page 2, lines 1 through 5.
Strike: lines 1 through 5 in their entirety

5. Page 2, line 6.
Strike: Section 2 in its entirety

The motion was carried unanimously.

Representative Daily moved, BE CONCURRED IN AS AMENDED. The motion was carried unanimously.

SENATE BILL NO. 497

Representative Thoft moved, BE CONCURRED IN.

Representative Marks made a substitute motion, TO AMEND, as follows:

1. Page 4, line 14.
Following: "[THIS ACT]"

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Page 5

Insert: "who is permitted to engage in aerial hunting pursuant to [this act]."

2. Page 5.

Following: line 8

Insert: "(3) Any person who is not permitted to engage in aerial hunting pursuant to [this act] who violates any provisions of [this act] is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than \$500 nor more than \$1,000. A subsequent conviction under this subsection is punishable by a fine of not less than \$1,000 or more than \$1,500."

(4) The justice court has jurisdiction over violations of [this act]."

3. Page 6, line 13.

Following: "±0"

Strike: "9"

Insert: "7"

Renumber: subsequent subsections

The sponsor of the bill was present at this time and was asked how he felt about amending the bill. Senator Van Valkenburg stated that he would encourage the amendments. This bill was amended so bad in the Senate that my intent was changed.

The amendments were carried unanimously.

Representative Keedy moved, TO AMEND, as follows:

1. Page 3, line 12.

Following: "a-year"

Insert: "a year"

The motion was carried unanimously.

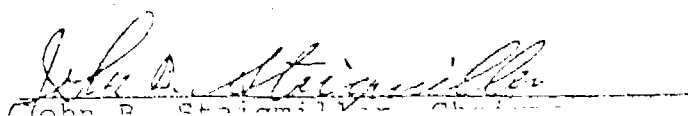
Representative Marks moved, TO ACCEPT THE STATEMENT OF INTENT. The motion was carried unanimously.

The motion to, BE CONCURRED IN AS AMENDED, was carried unanimously.

The following Representatives will carry the Senate Bills on the House floor.

SJR 21 - Jensen
SB 504 - Marks
SB 456 - Daily
SB 497 - Ellison

The meeting was adjourned at 2:10 p.m.


John B. Steigmeier, Chairman

1 STATEMENT OF INTENT RE: SB 497
2
3

4 Section 4 of this bill requires the Department of
5 Livestock to adopt rules regulating aerial hunting. It is
6 the intent of this bill that any rules so adopted not
7 interfere with the needs of livestock producers protecting
8 their livestock for predation. At the same time it is the
9 intent of this bill that such rules protect the interests of
10 persons who do not wish aerial hunting to occur over land in
11 their control. Finally, such rules shall reflect the purpose
12 that aerial hunting is permitted for the purpose of reducing
13 livestock losses due to predation.

14 Approved by the SENATE COMMITTEE OF FISH AND GAME on
15 February 20, 1979.

SENATE BILL NO. 497

INTRODUCED BY VAN VALKENBURG

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A PERMIT SYSTEM FOR THE AERIAL HUNTING OF PREDATORY ANIMALS FORBIDDING THE HARASSMENT OF LIVESTOCK BY AIRCRAFT; PROVIDING PENALTIES INCLUDING FORFEITURE OF PERSONAL PROPERTY FOR ILLEGAL AERIAL HUNTING OF WILDLIFE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Aerial hunting prohibited -- exceptions.

(1) Except as provided in [section 7], no person except an employee of the state, its subdivisions, or the federal government, acting within the scope of his employment may engage in the aerial hunting of wild animals as defined in ~~87-7-101~~ 81-7-101 without first obtaining a permit from the department of livestock. ~~The permit must specify the species of wild animals to be hunted and the areas over which aerial hunting may take place.~~

(2) No person issued a permit as required by this section may engage in aerial hunting of wild animals in violation of the terms of his permit. THE RULES PROMULGATED BY THE BOARD OF LIVESTOCK, OR THE TERMS OF [THIS ACT].

Section 2. Use of personal property for illegal aerial

~~hunting prohibited. When a permit is required under [section 1], the use of any aircraft or other personal property, including motor vehicles and other personal property used on the ground in support of aerial hunting activities for the aerial hunting of any wildlife is prohibited except when done pursuant to the terms of the permit issued by the Department of Livestock.~~

~~Section 3. Prohibition against harassing livestock. No person, whether or not lawfully authorized to aerially hunt, may, while engaged in flying an aircraft, knowingly harass, injure, or attempt to injure any livestock except with the express permission of the owner of the livestock flying near livestock at an altitude of less than 500 feet creates a rebuttable presumption of intent to harass.~~

Section 2. Rulemaking authority. The department of livestock may ~~SHALL~~ MAY adopt rules to effectuate the purposes of [this act] and to implement and conduct the aerial hunting permit system provided for by [this act]. Such rules may include:

- ~~(1) limits on the number of permits issued for a specific area of land;~~
- ~~(2) limits on the distance from home base that a permitted aerial hunter is able to hunt; THE SPECIES OF WILD ANIMALS TO BE HUNTED;~~
- ~~(3) reasonable experience qualifications for pilots~~

1 and-gunnerst

2 ~~{4}-standards-for-determining-when-a-nonresident-may~~
3 ~~be-issued-a-permit-under-[section-6]}~~

4 ~~{5}-standards-for-the-issuance-of-a-permit-based-upon~~
5 ~~actual-or-potential-livestock-losses-due-to-predation}~~

6 ~~{6}-reports-required-of-permittees-and~~

7 ~~{7}-such-other-matters-as-may-be-necessary-to~~
8 ~~effectuate-the-purposes-of-[this-act]-and-reduce-loss-to~~
9 ~~livestock-or-game-due-to-predation}~~

10 Section 3. Duration of permit -- fee. Each permit
11 shall be valid for a period set by the department of
12 livestock not to exceed 3 years and shall cost \$50 a-year &
13 ~~YEAR~~ or portion thereof if a period of less than a year is
14 set. All fees for permits shall be paid to the department of
15 livestock for deposit in the state treasury to the credit of
16 the earmarked revenue fund for predatory animal control.

17 Section 4. Residency requirement. No person not having
18 residence and domicile in Montana may be issued a permit
19 provided for in [section 1] except when authorized by the
20 board of livestock. Permits may be issued to nonresidents
21 for use only in Montana counties adjacent to the state line
22 if ~~AREAS WHICH~~ the department considers that such counties
23 are inadequately serviced by resident permittees, or to
24 nonresidents who are owners of land in Montana who wish to
25 engage in aerial hunting only over their own property.

1 Section 5. Resident landowners authorized to aerially
2 hunt over their own lands without permit -- conditions. Any
3 landowner having residence and domicile in Montana may
4 engage in the aerial hunting of wild animals, as defined in
5 81-7-101, with his own aircraft and over his own land
6 without a permit, provided he first ANNUALLY notifies the
7 department in writing that he will be engaged in aerial
8 hunting and gives an adequate description of the location of
9 the land over which he will aerial hunt. Such notification
10 must be made annually HUNTING MUST BE IN ACCORDANCE WITH ALL
11 RULES OF THE DEPARTMENT OF LIVESTOCK.

12 Section 6. Penalties -- jurisdiction -- revocation of
13 permit. (1) Any person violating ~~[sections--1-or-3]~~ ANY
14 PROVISION OF [THIS ACT] WHO IS PERMITTED TO ENGAGE IN AERIAL
15 HUNTING PURSUANT TO [THIS ACT] is guilty of a misdemeanor,
16 and upon conviction is punishable by a fine of not less than
17 \$250 or more than \$1000 or by imprisonment in the county
18 jail for a period not to exceed 6 months, or both.

19 ~~(2) A CONVICTION FOR A VIOLATION OF [SECTION--1-1-1]~~
20 SUBSECTION (1) IS PUNISHABLE BY A FINE OF NOT LESS THAN
21 \$500 OR MORE THAN \$1000 \$500, OR BY IMPRISONMENT IN THE
22 COUNTY JAIL FOR A PERIOD NOT TO EXCEED 6 MONTHS, OR BOTH, A
23 SUBSEQUENT CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS
24 THAN \$1,000 OR MORE THAN \$1,500 OR BY IMPRISONMENT IN THE
25 COUNTY JAIL FOR A PERIOD NOT TO EXCEED ONE YEAR.

~~(1) A CONVICTION FOR A VIOLATION OF PROVISIONS OF THIS ACT OTHER THAN SECTION 1111 SHALL BE PUNISHABLE BY FINE OF NOT MORE THAN \$500 OR BY IMPRISONMENT IN THE COUNTY JAIL FOR A PERIOD NOT TO EXCEED 6 MONTHS OR BOTH. A SUBSEQUENT CONVICTION SHALL BE PUNISHABLE BY A FINE OF NOT LESS THAN \$250 AND NOT MORE THAN \$500 OR BY IMPRISONMENT IN THE COUNTY JAIL FOR A PERIOD NOT TO EXCEED 6 MONTHS.~~

~~(2)(2) The justice court has jurisdiction over such violations.~~

~~(3) ANY PERSON WHO IS NOT PERMITTED TO ENGAGE IN AERIAL HUNTING PURSUANT TO THIS ACT WHO VIOLATES ANY PROVISIONS OF THIS ACT IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$500 OR MORE THAN \$1,000. A SUBSEQUENT CONVICTION UNDER THIS SUBSECTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$1,000 OR MORE THAN \$1,500.~~

~~(4) THE JUSTICE COURT HAS JURISDICTION OVER VIOLATIONS OF THIS ACT.~~

(3) ANY PERSON WHO IS NOT PERMITTED TO ENGAGE IN AERIAL HUNTING PURSUANT TO THIS ACT WHO VIOLATES ANY PROVISIONS OF THIS ACT IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$250 OR MORE THAN \$1,000. A SUBSEQUENT CONVICTION UNDER THIS SUBSECTION IS PUNISHABLE BY A FINE OF NOT LESS THAN \$500 OR MORE THAN \$1,000.

(4) THE JUSTICE COURT HAS JURISDICTION OVER VIOLATIONS OF THIS ACT.

~~(3)(4)(2)(5)~~ The department may revoke or suspend the permit of anyone violating its terms.

~~Section 9. Forfeiture of personal property used in illegal aerial hunting or harassment of livestock. (1) Any aircraft or other personal property used in the air or on the ground in support of aerial activity in violation of [sections 1 through 3] or 87-3-126 shall be forfeited to and confiscated by the state along with any carcasses or pelts taken in violation of [this act]. If any property is observed in such use or if there exists probable cause to believe it to have been or to be devoted wholly or in part to such use, the property shall be seized and held by enforcement officers set forth in [section 10]. Upon conviction in a proceeding in district court in the name of the state against the owner or user of such personal property, the personal property shall be confiscated and sold at sheriff's sale.~~

~~(2) This section does not apply to personal property that has been stolen prior to the illegal use when the lawful owner is not in collusion with the party or parties involved in the illegal uses.~~

Section 7. Enforcement. (1) Investigations of violations of [this act], arrests, and seizures may be made

1 by any peace officer, fish-and-game-warden or agent of the
2 department designated by the department.

3 (2) To enforce [this act], the department may enter
4 into agreement with federal agencies with predatory animal
5 control. Such agreements may allow the federal agency to
6 assist in investigations, arrests, and seizures.

7 Section 8. Codification. Sections 1 through ~~§ 2 I~~ in
8 this act are intended to be codified as an integral part of
9 Title 81, chapter 7, and the provisions contained in Title
10 81, chapter 7, apply to these sections.

11 ~~Section 12. Effective date. This act is effective on~~
12 ~~passage and approval.~~

-End-

STATE OF MONTANA

Request No. 381-79

FISCAL NOTE

Form BD-15

In compliance with a written request received February 15, 1979, there is hereby submitted a Fiscal Note for Senate Bill 497 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 497 is legislation proposed to provide for a permit system for the aerial hunting of predatory animals; forbidding the harassment of livestock by aircraft; providing penalties, including forfeiture of personal property, for illegal aerial hunting of wildlife; and providing an immediate effective date.

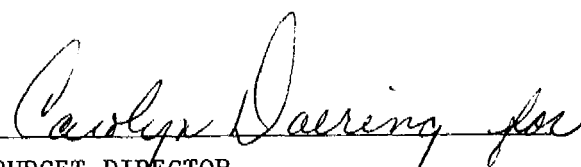
ASSUMPTIONS:

Four additional game wardens would be requested in Fish and Game Regions 4 (Great Falls), 5 (Billings), 6 (Glasgow), and 7 (Miles City), to investigate complaints and process citations through the court system.

FISCAL IMPACT:

	<u>FY 80</u>	<u>FY 81</u>
Proposed law		
Personal services	\$54,737	\$56,023
Operating expenses	<u>22,000</u>	<u>22,000</u>
Total expenditures under proposed law	<u>76,737</u>	<u>78,023</u>
Expenditures under current law	<u>19,488</u>	<u>19,817</u>
Increased expenditures under proposed law	<u>\$57,249</u>	<u>\$58,206</u>

Proposed law will increase revenue to the predator fund approximately \$4,000 each year.


BUDGET DIRECTOR
Office of Budget and Program Planning
Date: _____